

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOHN EDWARD KUPLEN,)	
)	
Petitioner,)	
)	
v.)	1:14CV598
)	
FRANK PERRY,)	
)	
Respondent.)	

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation filed on February 20, 2015, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 26.) In the Recommendation, the Magistrate Judge recommends that Respondent's Motion to Dismiss (Doc. 9) be granted, that Petitioner's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus (Doc. 2) be denied, and that Judgment be entered dismissing this action, without the issuance of a certificate of appealability. The Magistrate Judge also recommended that Petitioner's pending motions (Docs. 14, 15 and 24) be denied as moot. The Recommendation was served on the parties to this action on February 20, 2015 (Doc. 27). After receiving two extensions, Petitioner filed objections (Doc. 33) to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation in full.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 26) is **ADOPTED**. **IT IS FURTHER ORDERED** that Respondent's Motion to Dismiss (Doc. 9) is **GRANTED**, that Petitioner's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus (Doc. 2) is **DENIED**, and that this action is **DISMISSED**.

IT IS FURTHER ORDERED AND ADJUDGED that Petitioner's pending motions (Docs. 14, 15 and 24) are **DENIED AS MOOT**.

A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right

affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 10th day of July, 2015.

William L. Ostrow, Jr.

United States District Judge